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Attorney for Defendant
JAN PORTOCARRERO

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAN PORTOCARRERO,

Defendant.

Case No. CR-13-2196-JLS

**RESPONSE TO GOVERNMENT
MOTION TO AMEND BAIL ORDER TO
A REAL PROPERTY BOND ONLY**

Date: July 9, 2013
Time: 9:30 A.M.
Courtroom: 4A

Defendant JAN PORTOCARRERO , by and through his counsel of record, Richard P. Lasting, hereby files this Response To United States' Motion To Amend Bail Order To A Real Property Bond Only.

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MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

On June 28, 2013, this Court held a hearing on a motion by the government to revoke a bond set by the Magistrate Judge before whom Mr. Portocarrero first appeared following his surrender on this indictment. After considering arguments by the government and the defendant, the Court entered an Order And Conditions Of Pretrial Release: Bail (18 U.S.C. § 3142 (c)). [Document 160]. This Order modified the conditions of release by increasing the amount of the bond from 1.5 million to 2.5 million dollars and requiring the surrender of the passports of Mr. Portocarrero's wife and two young sons prior to his release on bond. The Court also ordered that the increased bond amount could be posted by real property or cash, subject to the bond's approval by a federal judge. The government now seeks an amendment to the bond order to preclude the posting of a cash bail. Mr. Portocarrero submits the Court properly exercised its discretion in authorizing the posting of a real property or cash bond in the specified amount. The government's motion to amend the Order should be denied.

II. ARGUMENT

The Bail Reform Act of 1984 vests the court with discretion to set bail in a manner sufficient to reasonably assure the appearance of the defendant at all future court proceedings and to reasonably assure the safety of the public. The Court, by dramatically increasing the amount required to be posted as bail, coupled with the surrender of family passports, exercised its discretion in a manner to provide Mr. Portocarrero with an opportunity to make bail while at the same time imposing a combination of conditions designed to protect the community and insure Mr. Portocarrero's attendance at all future court proceedings. This is accomplished whether the substantially increased bond is posted by real property or cash. Under the existing Order of the Court, any cash bail would be subject to a Nebbia Hearing.

III. CONCLUSION

1 For the foregoing reasons, Mr. Portocarrero respectfully asks the Court to deny the
2 government's motion to amend the conditions of bond as set forth in the Order of June 28,
3 2013 and permit the posting of a bond secured by either real property or cash.

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5 Dated: July 8, 2013

Respectfully Submitted,

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7 /s/ Richard P. Lasting
8 Attorney for Defendant
9 JAN PORTOCARRERO
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CERTIFICATE OF SERVICE

I, Richard P. Lasting hereby declare:

That I am employed in the County of Los Angeles, State of California; that my business address is 315 E. 8th Street, Suite 801, Los Angeles, CA 90014; that I am over the age of eighteen and not a party to the within entitled action; that I am a member of the bar of this Court.

On July 8, 2013, I served a copy of: RESPONSE TO GOVERNMENT MOTION TO AMEND BOND ORDER TO A REAL PROPERTY BOND ONLY on the interested parties in this action as stated below.

Service was:

☐ Placed in a sealed envelope and mailed via United States Mail, addressed as follows:

☐ By hand delivery addressed as follows:

☐ By facsimile as follows:

☐ By messenger as follows:

☒ By e-mail as follows:

AUSA Andrew G. Schopler

andrew.schopler@usdoj.gov

☒ By electronically filing the foregoing using the court's ECF system.

This Certificate is executed on July 8, 2013 at Los Angeles, California. I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

/s/ Richard P. Lasting
RICHARD P. LASTING
Attorney At Law